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SIPDIS

STATE FOR EAP/ANP/RICCI AND EB/IPE/WILSON
STATE PASS TO USTR MULLANEY
USDA FOR FAS/ITP/ZIMMERMAN, MIRELES, AND HURST AND
FAS/FAA/YOUNG

E.O. 12958: N/A

TAGS: [ETRD](#) [EAGR](#) [ECON](#) [NU](#) [KIPR](#) [NZ](#) [WTRO](#)

SUBJECT: NEW ZEALAND SUPPORTS U.S. POSITION ON GEOGRAPHIC INDICATIONS IN WTO

REF: SECSTATE 180474

1. Summary: New Zealand shares the concern of the United States that the EU and others may attempt to hold up negotiations at the WTO Hong Kong Ministerial unless their demands on geographical indications (GIs) are met. New Zealand will work closely with the United States to prevent this from occurring. New Zealand supports U.S. efforts to keep the discussion of geographical indications in the TRIPS Council and outside of the negotiations taking place within the Agriculture Committee. End Summary.

2. Embassy's Agricultural Attache met with Reuben Levermore, Policy Officer at the Trade Negotiations Division of New Zealand's Ministry of Foreign Affairs and Trade, to discuss issues raised reftel. New Zealand views the primary focus of the agriculture negotiations as the improvement of market access and concurs with the United States that singling out products of particular groups of producers for special intellectual property protection is not compatible with meeting this goal. New Zealand does recognize the value of GIs and supports preserving the integrity of GIs within the context of the TRIPS Agreement. New Zealand also shares our concern that negotiating GIs in two separate WTO Committees undermines the effectiveness of one set of rules and runs the risk of creating conflicting agreements and obligations.

3. New Zealand fully appreciates that GI-related obligations established in the Agriculture Committee would be outside the context of intellectual property and therefore would pose a risk of interfering with WTO member countries' ability to individually implement GI obligations in accordance with national laws. New Zealand also is concerned that GI obligations set under the Agriculture Committee could upset the careful balance established in the TRIPS Agreement between trademarks and GIs.

4. New Zealand will vigorously oppose EU efforts to establish provisions in the agriculture agreement that will obligate companies in all WTO Member states to abandon generic terms used to describe products if the EU considers the term a GI. New Zealand industry would potentially face significant marketing and trade costs if GI protection were afforded to products on the EU's clawback list. New Zealand further views the regulatory costs imposed on governments by such an action as trade inhibiting.

5. Extending GI protection to the EU's clawback list would be particularly harmful to New Zealand's dairy industry (feta, parmesan, gorgonzola, and mozzarella cheese products) and wine (port and sherry). Also of concern to New Zealand is the potential impact of Greece's GI claim on kalamata olives.

6. New Zealand supported the United States last July at a Rome meeting of the Codex Alimentarius Commission. The EU had been inappropriately using Codex to advance its interest in geographical indication recognition of "parmesan" and had been blocking the development of an international Codex standard for this cheese type. New Zealand, along with the United States, argued for the development of a standard, maintaining that parmesan is internationally recognized as being a generic name and that consumers do not expect parmesan cheese to necessarily originate from the "Parma" region. New Zealand expressed the view at the Rome meeting that Codex was not the appropriate forum for the issue of GI protection to be addressed, but rather the World Intellectual Property Organization and the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).

7. New Zealand may soon enter into negotiations with the EU related to wines and spirits. New Zealand looks forward to this as an opportunity to address access

issues for its products in EU markets and anticipates that the EU will seek to gain New Zealand GI recognition for clawback listed products. While these generic names are commercially less important today to New Zealand's wine industry than previously, the local trade seeks to preserve future rights. A New Zealand court ruled in the early 1990s that Champagne could not be used on Australian product sold in New Zealand. The court reserved its ruling exclusively for this product and no other judicial determination or New Zealand law affords GI protection to other products found on the EU's clawback list.

18. New Zealand firmly opposes the EU's intent to achieve the results for geographical indications called for in the October 10 Statement of its Conditional Negotiating Proposals in the Doha Round. This includes the EU's request to engage on "intensive negotiations on the Register and to have a firm agreement in Hong Kong to commence negotiations immediately on the extension of the register" from wine and spirits to include GIs for other products. New Zealand agrees with the U.S. position that the EU's proposed register goes beyond the mandate in the TRIPS Agreement and in DOHA to establish a voluntary system and opposes EU efforts to create an automatic supranational system that establishes binding GI rights on all WTO members for all products. New Zealand further agrees with the United States that Article 23 Extension are not validated by evidence that existing TRIPS obligations for protection of other products is inadequate. In addition to the policy considerations expressed above, New Zealand's position on GIs takes into account its economic assessment that the EU's efforts to obtain a "more certain legal environment" (enhanced) for marketing its products globally through increased GI protection would result in significant real costs and commercial uncertainty for New Zealand's own agricultural trade.

BURNETT